## UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

SUSAN FITZHUGH Individually : and as Administratrix of the Estate : of Estate of RAHEEM SMITH :

Plaintiff : No. 1:12:cv-591

V.

: Judge Jones

CORIZON HEALTH, INC., et al. :

**Defendants:** Electronically Filed

## MEMORANDUM OF LAW IN SUPPORT OF PETITION OF JAMES D. FAMIGLIO, ESQUIRE FOR LEAVE TO WITHDRAW APPEARANCE AS ATTORNEY FOR PLAINTIFF

Under the Local Rules of Civil Procedure, "[a]n attorney's appearance may not be withdrawn except by leave of court, unless another attorney of this Court shall at the same time enter an appearance for the same party." E.D. Pa.R.Civ.P. 5.1.

The Rules of Professional Conduct permit a lawyer to withdraw from representing a client if, among other grounds, "withdrawal can be accomplished without material adverse effect on the interests of the client," unless he is ordered by a tribunal to continue the representation. Pa.R.Prof.Conduct 1.16(b)(c).

Whether to permit an attorney to withdraw must be determined with reference to the purpose underlying Local Rule 5.1, which includes "ensuring effective court administration." *Ohntrup v. Firearms Ctr., Inc.*, 802 F.2d 676, 679 (3d Cir. 1986).

In the present case, Petitioner's continued representation is extremely

difficult in light of the differences in theories of liability held by Petitioner and Plaintiff. Good cause, therefore, exists under Rule 1.16 of the Pa.R.Prof.Conduct for your Petitioner's withdrawal.

Further, neither prejudice or harm will result to the Plaintiff in allowing Petitioner to withdraw and reasonable time to secure counsel.

For the foregoing reasons, Petitioner respectfully requests this Honorable Court to enter the attached Order relieving him as attorney of record for Susan Fitzhugh, Individually and as Administratrix of the Estate of Estate of Raheem Smith.

Respectfully submitted,

Law Offices
JAMES D. FAMIGLIO, P.C.

By: s/ JAMES D. FAMIGLIO

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Dated: 6/12/13